MEMORANDUM

TO: REF ATTORNEYS, PARALEGALS and LAW STUDENTS 
FROM: Mary Sabatini DiStephan
RE: Auctions

DATE: 10/25/89

As we discussed at last week’s meeting, many sponsors are considering auctioning condo or coop units probably because the market is presently so poor. They are questioning what if anything must be done in order to satisfy Martin Act requirements.

The following disclosures should be required to be made in a duly filed amendment to the plan in order to satisfy disclosure mandates of the statute:

(1) All prospective bidders will have at least three business days to review the plan before taking part in the auction. In the alternative, they will have seven days to rescind after a successful bid (an option I doubt many sponsors will choose).

(2) The procedure for obtaining an offering plan and to register to take part in the auction must be fully described.

(3) The date, time and place for the auction must be stated.

(4) The auction procedure must be fully disclosed, i.e., whether there are minimum bids; which units are being auctioned; whether the highest bid must be accepted; whether the auction is "with reserve" (auctioneer may withdraw the "goods" at any time until he announces completion of the sale) or "without reserve" (after the auctioneer calls for bids on an article or lot, that article or lot cannot be withdrawn unless no bid is made within a reasonable time).

(5) The plan must reflect the highest price for the units to be auctioned, so that proper fees will be collected.
I am attaching relevant statutes* dealing with auctions and prizes generally. You can refer attorneys to these statutes for their information although they are not directly relevant to our disclosure requirements. The Consumer Frauds Bureau handles auction complaints.

* Statutes attached are:

- G.B.L. Article 3  - Auctions and Auctioneers
- U.C.C. § 2-328  - Sale by Auction
- G.B.L. § 369-ee  - Prize award schemes

MSD: kd
Attachment


§ 2-312. Warrant of title and special information. U.C.L. form commercial code. 


Liens, liens.

(d) As amended by L.1972, c.6, § 2. 

Subsequent to 15 years after the date of enactment in clause "the provisions of this section shall not be construed to authorize any exception or application thereof to any section of any law of this state or any act of Congress or any provision of any law of any other state or any provision of any act of Congress or any provision of any law of any foreign country or any province or any country or any foreign country that does not apply to the provisions of this section that are applicable to the person or entity that is the subject of this order.

Additional Remedies. In addition to the right of action practice law, and rules.

10. Whenever the court shall determine that a violation or this § 23.

Auction and auctioneers.
$26. Record open to inspection

Records required under this Act shall be open to the public, except to the extent specifically permitted to be closed under Federal or State law.

§ 27. Records to be kept by auctioneers

Every auctioneer shall keep books and records as required by law and shall maintain such records in such form and detail as the court may direct. The books and records shall be open at all reasonable times to the public.

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Record of acceptance by such auctioneers of such goods for the purpose of sale at auction, the date of the sale, the description of the goods and the terms of the sale, the name and address of the auctioneer, the name and address of the person to whom the goods are to be delivered, the amount for which the goods are to be sold, and such other information as the court may require.
§ 28. Limitation

Section twenty-eight, twenty-six, and twenty-seven hereby shall apply only to cities of the first class and do not repeal or supersede

Encyclopedia

§ 29. Enforcement

Sections twenty-six, twenty-eight, and twenty-nine shall be enforced by the

American Business System

§ 27. Penalties

Action, penalties in general, see C.G.S. actions and auctioneers § 2

§ 28. Limitation

Sections twenty-six, twenty-eight, and twenty-nine shall be enforced by the

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§ 29. Enforcement

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The court or the government may be required by the court or the government to issue an injunction or further order. This is to allow the court to order the defendant not to engage in the conduct described in this section. If the court or the government finds that the conduct in question is likely to cause harm or injury, the court may order the defendant to stop the conduct described in this section. If the court or the government finds that the conduct in question is likely to cause harm or injury, the court may order the defendant to stop the conduct described in this section. If the court or the government finds that the conduct in question is likely to cause harm or injury, the court may order the defendant to stop the conduct described in this section.